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US DEPARTMENT OF TRANSPORTATION
OFFICE OF HEARINGS
WASHINGTON, DC

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IN THE MATTER OF

SAMPSON COATING, INC.

FAA DOCKET NO. CP03SO0041
(Civil Penalty Action)

DMS NO. FAA-2003-16048 — 2

ORDER OF CHIEF ADMINISTRATIVE LAW JUDGE

This proceeding arises from a complaint dated September 3, 2003, alleging violation of the Department of Transportation Hazardous Materials Regulations and the Respondent's request for hearing dated August 11, 2003. The undersigned administrative law judge was assigned to the proceeding by Notice served November 7, 2003.

The Rules of Practice for this proceeding are set forth in Part 13, Subpart G, of the Federal Aviation Regulations (14 C.F.R. Part 13). Those rules provide, inter alia, that the Respondent must file a written answer or motion within 30 days after service of the complaint (§ 13.209(a)), that a general denial is deemed a failure to file an answer (§ 13.209(e)), that failure to file an answer without good cause is deemed an admission of each allegation in the complaint (§ 13.209(f)), and that, absent agreement of the parties, a party seeking an extension of time must file a written motion not less than seven days before the document is due, absent good cause shown (§ 13.213(a) and (b)).

In order to expedite the hearing in this matter, the Regional Counsel and the

Respondent on or before November 21, 2003, shall file any amendment of the complaint or answer¹ and an agreed or separate proposed procedural schedules including proposed dates (i.e. specific dates not merely numbers or days prior to the hearing) for filing stipulations, a list of witnesses, a summary of their proposed testimony, and for exchange of exhibits and discovery, if any; a statement concerning the status of settlement efforts; proposed hearing site; and, absent agreement between the parties, a justification of any such proposed site.

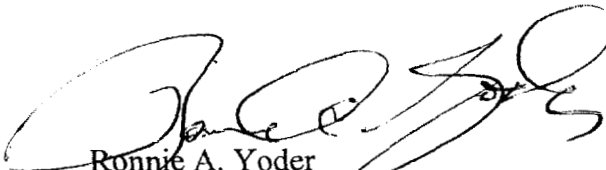
Under FAA Order 2150.3A and the Rules governing these proceedings, the agency attorney and the Respondent should continue to consider the possibility of settlement and compromise of this matter.² In connection with such discussions the FAA shall furnish Respondent a copy of at least the following pages of FAA Order 2150.3A (Change 18, dated April 20, 1994)--cover page and pages i, 15-24, 30, 138-1 and Appendix 4 pages 1-4 and any other relevant pages of the Sanction Guidance Table (including pages 5-8 for air carrier cases and pages 20 to 21-3 for weapons violations).

¹ Further amendments will not be anticipated absent good cause shown. While 14 C.F.R. § 13.214(b)(1) permits amendments at any time more than 15 days before a hearing, utilization of that provision would prevent orderly preparation for a hearing and could prevent any hearing at all, since notice of a hearing must be given 60 days in advance. 14 C.F.R. § 13.221(a). An amendment which might be filed 15 days prior to the hearing would entitle the other party up to 20 days in which to reply (14 C.F.R. § 13.214(c)), and could generate a new round of schedules (14 C.F.R. § 13.217), motions (14 C.F.R. § 13.218), and discovery (14 C.F.R. § 13.220), necessitating a postponement of the hearing, a new 60-day notice, et cetera ad infinitum.

² See Linda Joyce Goodman, FAA Docket No. CP89WP0061, Order dated May 30, 1989. See also Exec. Order No. 12,778, 56 Fed. Reg. 55,195 (1991), which refers to reducing the time and resources expended during administrative adjudications and directs counsel representing the United States Government to promote the just and efficient resolution of civil claims by evaluating settlement possibilities and making reasonable efforts to settle, including participation in settlement conferences; Civil Justice Reform, Implementation of Exec. Order 12,778 (Department of Justice, National Broadcast, February 27, 1992), pp. 37, 39-40.

Compromise may be effected with or without a finding of violation (§ 13.16 (l)). Each party's filing shall include a telephone number where they can be reached by the Judge for prehearing telephone conferences.

SO ORDERED.



Ronnie A. Yoder
Chief Administrative Law Judge

Attachment - Service List

SERVICE LIST

ORIGINAL & ONE COPY

Hearing Docket
Room 924A, AGC-10
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